



PATENT

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November 17, 2005

Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gregory Brown and Marcellino Tanumihardja
Application No. : 09/894,279
Filed : June 27, 2001
Title : WIRELESS DEVICE DETECTION
Confirmation No. : 5240

Examiner : Winder, Patrice L.
Art Unit : 2145
Docket No. : 360044.402
0805-003-002-SEED
Customer No. : 44,765

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INTERVIEW SUMMARY AND AMENDMENT

Commissioner of Patents:

This amendment is in response to the Office Action dated 06 July 2005. An extension of time is requested and a Petition for Extension of Time for one month under 37 CFR 1.136(a) with the required fee is enclosed.

INTERVIEW SUMMARY

On 03 November 2005 Examiner Winder (hereinafter “Examiner”) spoke with the undersigned (who was acting on behalf of the Applicant Entity and whom will hereinafter be referred to as “Applicant”) by telephone regarding Examiner’s 06 July 2005 Final Office Action. Applicant’s recollection of the substance of that interview is set forth following.

I. DISCUSSION OF PRESENT AMENDMENT

Examiner Winder and Applicant discussed several versions of potential minor claim revisions to make yet more clear that the then-pending claims were patentable over the art.

Examiner and Applicant discussed the fact that Applicant was recasting the previously-filed independent claims and/or adding additional claims herein as a courtesy to Examiner to increase grammatical clarity. Applicant explained to Examiner that Applicant agreed with predecessor-attorney David Carlson’s assessment that “U.S. Patent 6,430,624 to Jamtgaard et al. fails to show or suggest the detection of a wireless capability,” *See* [David Carlson’s] Response [to Office Action] page 2 (25 April 2005), of the then-pending un-amended claims, at least when certain legal rules were applied. However, Examiner and Applicant also discussed the curious fact that Examiner is not bound by post-issuance claim interpretation legal rules, and thus can require amendments to give improved prima facie clarity to the claims even if such would not be required to render the claims patentable under the appropriate rules of claim interpretation. *See In Re American Academy of Science Tech Center* (Fed. Cir. 2004) (Indicating that the PTO is not bound to follow the post-issuance rules of claim construction, and thus may require an applicant to amend to give clarity beyond that necessary for a claim to be definite/novel under the Patent Statutes).

Applicant then discussed with Examiner that Applicant would be glad to amend the claims herein as discussed, but that Applicant was concerned that someone might argue, post-issuance, that the claims had been amended for reasons related to patentability, when in fact they were/are being amended to increase grammatical clarity for Examiner. In light of this discussion, Examiner agreed that it would be appropriate for Applicant to state for the record that the claims were not being amended for reasons of patentability and/or, at most, were being amended for reasons tangential to patentability, and that, consequently, Applicant has no intention of surrendering subject matter or disavowing claim scope since amendments herein have been/are made for reasons other than and/or tangential to patentability. As further evidence of that intention, Applicant also informed Examiner that Applicant intended to file a companion continuation case in which the un-amended claims were re-asserted.

In light of the amendments herein, Applicant believes Examiner and Applicant have reached resolution that all claims pending are in condition for allowance. A Notice of Allowance to that effect is respectfully solicited.